



COPY

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November 16, 2011

William A. Parisi
S.B.I. #217670
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Re: Parisi Freedom of Information Act ("FOIA") Petition

Dear Mr. Parisi,

Your letter dated October 10, 2011 is deemed to be a petition to the Attorney General (the "Petition") pursuant to 29 Del. C. Sec. 10005(e) from the refusal of the Department of Corrections (the "Refusal") to release to you certain records of the Department you have requested.

Your Petition for a determination as to whether the Refusal is a violation of FOIA is governed by the provisions of FOIA which provide, in relevant parts:

"Section 10005(e) Enforcement:

* * *

"(e) Any citizen may petition the Attorney General to determine whether a violation of this chapter has occurred or is about to occur. The petition shall set forth briefly the nature of the alleged violation. Upon receiving a petition, the Attorney General shall promptly determine whether the petition is against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to § 2504 of this title. Every petition against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to § 2504 of this title shall be referred to the Chief Deputy Attorney General who shall, within 20 days of receiving the petition, render a written determination to the petitioner and the public body involved declaring whether a violation has occurred or is about to occur.

* * *

Regardless of the finding of the Chief Deputy, the petitioner or the public body may appeal the matter on the record to Superior Court.

* * *

The citizen shall have the absolute right to file suit regardless of the determination of the Attorney General, and may move to intervene as a party in any suit filed by the Attorney General."

The Attorney General (1) has determine that the Department of Corrections is an agency represented by the Attorney General pursuant to 29 *Del. C.* section 2504, and (2) has referred the Petition to the Chief Deputy Attorney General for his determination of whether the Refusal constitutes a violation of FOIA.

This is the "written determination" of the Chief Deputy Attorney General that the Refusal does *not* constitute a violation of FOIA because the records you seek are not "Public Records" subject to disclosure under the Act.

29 *Del. C.* § 10002. Definitions provides in relevant parts:

* * *

"(g) 'Public record' is information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced. For purposes of this chapter, the following records shall not be deemed public:

* * *

"(13) Any records in the possession of the Department of Correction where disclosure is sought by an inmate in the Department's custody."

Because you are an inmate of the Department of Corrections seeking disclosure of the Department's records, those records are not Public Records subject to disclosure.

Yours truly,



Charles E. Butler

Chief Deputy Attorney General

cc: Joseph R. Biden, III, Attorney General
Perry Phelps, Warden
Carl C. Danberg, Commissioner
Lawrence W. Lewis, State Solicitor